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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,267	10/15/2003	Burns P. Phillips	50243-0001	9960

3490 7590 01/12/2005

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EXAMINER

JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,267

Applicant(s)

PHILLIPS ET AL.

Examiner

Vicky A. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. Figure 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 12 is objected to because of the following informalities: Needs punctuation at the end of the sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 and 19 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear and not understood how "a connector connected at the end of the retractor shaft to the retractor shaft", as recited in claim 1.

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Claim 19 recites the limitation "the hub" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bookwalter et al (US 6,241,659), as best understood.

Bookwalter et al disclose a retractor assembly comprising: a support (16); a clamp (30) selectively positionable at a desired location on the support (see Fig 2); a retractor shaft (42) connected to the clamp extending away from the clamp and support (see Fig 2), and having an end with a shaft axis extending through the end of the retractor shaft (see Fig 2); a connector (32) connected at the end of the retractor shaft to the retractor shaft (see Fig 2); and a retractor blade (320) connected to the connector by a stem (310), said stem retained to the shaft by the connector and angularly positionable relative to the shaft axis up and down intermediate a range of +/- twenty degrees relative to the shaft axis about a tilting axis (see Fig 2).

Re claim 2, wherein the connector allows pivoting of the stem side to side about a rotation axis intermediate a range of about +/- 60 degrees relative to the shaft axis about a rotation axis (see Fig 2).

Re claim 3, wherein the tilting axis is spaced from and perpendicular to the rotation axis (see Fig 2).

Re claim 4, wherein the clamp grips the support when secured at the desired location on the support (see Fig 2).

Re claim 5, wherein the support is a retractor support ring (see Fig 1).

Re claims 6, 14, 16, and 18, wherein the retractor shaft is substantially linear and extends along the axis (see Fig 2).

Re claims 7 and 12, wherein the connector further comprises a flange clevis (66) connected to the retractor shaft, which receives a pivot flange (44) connected to the stem of the retractor blade, and said pivot flange is pivotable +/- twenty degrees about a rotation axis (see Fig 2), said rotation axis perpendicularly oriented to the shaft axis and tilting axis (see Fig 2).

Re claims 8 and 13, further comprising a blade attachment boss (56) and the pivot flange is connected to the blade attachment boss, which connects to the stem to the retractor blade (see Fig 2).

Re claim 9, further comprising side slots (60) in the blade attachment boss and the blade attachment boss is connected by a pin (58) restrained by the side slots.

Re claims 11 and 19, a slot (70) limiting the angle of the retractor blade relative to the shaft axis (see Fig 2).

Re claim 20, the slot is intersected by the shaft axis (see Fig 2)

Conclusion

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

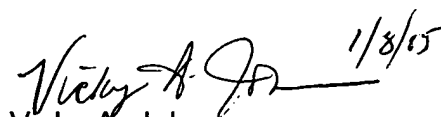
6,729,205 Phillips (tilting axis)

6,431,025 Koros et al (locking mechanism)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (703) 305-3013. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Vicky A. Johnson
Examiner
Art Unit 3682